



scavenger work used to spare 1 or 2 hours for theatre work and he has other businesses through which he was earning *lump sum*. He was paid daily ₹ 25 and ₹ 800 per month. The petitioners 3 to 7 are helpers who did works selling tickets and regularising the audience one hour prior to the starting of the show. The 4th petitioner was paid daily ₹ 35 and the petitioners 5 to 7 are daily paid ₹ 30. The petitioner's work are not of engaging them fully for the theatre, hence they are not entitled to benefits which are available under labour laws. The petitioners are not sincere in discharging their duties. They are responsible to put the theatre under financial burden. They used to allow audiences to cinema show without selling tickets very often. Therefore in due course the management incurred heavy loss and finally the theatre was closed. Therefore, the petitioners are alone responsible for the closure of the theatre. The petitioners are not entitled to get anything from the respondent. Hence, the respondent prayed to dismiss the petition.

*On these pleadings :*

4. After the reference, the first petitioner was reported dead. Therefore, petitioners No. 2 to 6 were examined as P.Ws. 1 to 6. They have not chosen to mark any documents. The respondent has not chosen to let in any evidence.

5. *Now the point for determination is:*

Whether the petitioners are entitled for an order as prayed by them?

*On the point :*

6. The contention of the respondent is that the petitioners are not permanent employees. The respondent contention has been negated by the Conciliation Officer and the reference has been made by the Government to this court. Hence, the respondent cannot question it at this stage. The management cannot retrench the worker without giving one month notice in writing indicating the reasons for retrenchment. Admittedly, the respondent theatre has been closed and as such the petitioners cannot claim reinstatement. Therefore, the petitioners are entitled only for compensation as contemplated under labour laws. As per the claim statement, the petitioners have claimed they worked for more than five years. As per the proof affidavit filed by the petitioners they have claimed ₹ 50,000 without any reason or rhyme. The petitioners have to prove how long they were worked in the respondent theatre. Considering the evidence available on record, the petitioners are entitled for compensation calculated to 15 days average pay for every completed years of continuous service or any part thereof in excess of six months.

In view of the above discussions, this point is answered to the effect that the petitioners are entitled for compensation equivalent to 15 days average pay for every completed year of continuous service or any part thereof in excess of six months.

7. In the result, this industrial dispute is allowed accordingly to the effect that the petitioners are entitled for compensation equivalent to 15 days average pay for every completed year of continuous service or any part thereof in excess of six months. No costs.

Dictated to the stenographer, transcribed by her, corrected and pronounced by me in the open court on this the 25th day of July 2011.

**R. MARGARET ROSALINE,**  
Presiding Officer, Labour Court.  
Karaikal.

*Petitioner's witnesses :*

P.W.1. — Natarajan  
P.W.2. — R. Selvaraj  
P.W.3. — P. Sekar.  
P.W.4. — N. Kumar @ Jayaveera Kumar  
P.W.5. — V. Ponnammal  
P.W.6. — D. Rajendran

*Respondent's witnesses : Nil*

*Petitioner's exhibits : Nil*

*Respondent's exhibits : Nil*

**PRESIDING OFFICER,**  
Labour Court, Karaikal.

**GOVERNMENT OF PUDUCHERRY**  
**LABOUR DEPARTMENT**

(G O. Rt. No. 173/AIL/Lab/JJ/2011, dated 17th October 2011)

#### NOTIFICATION

Whereas, the Award in I.D.No.1/2007, dated 16-7-2011 of the Labour Court, Karaikal in respect of the industrial dispute between the management of M/s. Vasantha Carbide Private Limited, Melavanjore, Karaikal and its workmen *viz.*, Thiru. K. Kaliaperumal and 39 other workers over non-payment of lay-off salary has been received;

Now, therefore, in exercise of the powers conferred by sub-section (1) of section 17 of the Industrial Disputes Act, 1947 (Central Act XIV of 1947) read with the

notification issued in Labour Department's G. O. Ms. No. 20/91/Lab./L, dated 23-5-1991, it is hereby directed by Secretary to Government (Labour) that the said Award shall be published in the official gazette, Puducherry.

(By order )

**N. APPA RAO,**

Under Secretary to Government (Labour).

**BEFORE THE LABOUR COURT AT KARAIKAL**

*Present :* Tmt. R. MARGARET ROSALINE, M.L.,  
Presiding Officer,  
District Judge.

*Saturday, the 16th day of July 2011*

**I. D. No. 1/2007**

1. K. Kaliaperumal,
  2. A. Balusamy,
  3. G. Ramakrishnan,
  4. V. Mahendiran,
  5. P. Sivasankaran,
  6. N. Rajavelu,
  7. S. Kannan,
  8. G. Maran,
  9. R. Balakumar,
  10. M. Muthusamy,
  11. S. S. Ramar,
  12. C. Subramani,
  13. V. Nallathambi,
  14. R. Selvam,
  15. M. Kannan,
  16. R.S. Selvam,
  17. J. James,
  18. A. Mani,
  19. K. Ravichandran,
  20. J. Raj,
  21. P. Tamilvanan,
  22. J. Leninraj,
  23. A. Mary,
  24. M. Sathiyavani,
  25. G. Neelavathi,
  26. V. Tamilarasi,
  27. M. Mala,
  28. S. Sakthivel,
  29. G. Gulasegaran,
  30. T. Senthil,
  31. G. Maheswari,
  32. M. Tamilselvam.
- .. Petitioners

*Versus*

M/s. Vasantha Carbide Private Limited,  
Represented by its Directress N. Vasantha,  
Nagore Main Road,  
Melavanjore, T. R. Pattinam. .. Respondent

This petition coming on 3-6-2011 for final hearing before me in the presence of Thiru Thurai Arumugam, representative for the petitioners, Thiru A. Thirumalvalavan, advocate for the respondent, upon hearing both sides and perusing the case records and having stood over for consideration till this day, this court passed the following :

**AWARD**

This is a reference under the Industrial Disputes Act, 1947 regarding the dispute within the management of M/s. Vasantha Carbide Private Limited, Melavanjore, Karaikal and its 32 workmen over non-payment of lay-off salary in G. O. Rt. No. 99/2007/Lab./AIL/J, dated 21-5-2007.

The following issues are found in the Annexure :

(a) Whether the dispute raised by following workers against the management of M/s. Vasantha Carbide Private Limited, Melavanjore, Karaikal regarding the non-payment of lay-off salary is justified or not?

1. S.M. Murugan, 2. K. Kaliaperumal, 3. A. Balusamy,
4. G. Ramakrishnan, 5. V. Magendiran, 6. P. Sivashankar,
7. K. Ravi, 8. N. Rajavel, 9. S. Kannan, 10. G. Maran.
11. R. Balakumar, 12. M. Muthusamy, 13. S. Ramar,
14. C. Subramanian, 15. V. Nallathambi, 16. G. Gunasekaran,
17. R. Selvam, 18. M. Kannan, 19. R.S. Selvam,
20. J. James, 21. Jesphine, 22. A. Mani, 23. K. Ravichandran,
24. J. Raj, 25. T. Senthil, 26. P. Thamizhvanan,
27. J. Leninraj, 28. A. Mary, 29. C. Mageshwari, 30. R. Selvi,
31. M. Sathiyavani, 32. G. Neelavathi, 33. V. Thamizharasi,
34. M. Mala, 35. S. Sakthivel, 36. V. Sakthivel,
37. Tamizhselvam, 38. Arockiadoss, 39. Balakumar,
40. S. Muthukumar.

(b) To what relief, they are entitled?

(c) To compute the relief, if any, awarded in terms of money, if it can be so computed?

2. The following are the averments found in the petition :

All the petitioners are employees under the respondent management. They worked as permanent employees since 1987. On 9-9-2007 the electricity supply to the respondent management was stopped as the management has not paid the electricity dues. Instead of paying the electricity dues and starting the production, the respondent management closed the industry on 9-9-2002. Hence the respondent management has done the act against section 25 M (1) of Industrial Disputes Act, 1947. Against the said act of the management, the petitioners approached the Conciliation Officer by raising an industrial dispute. The respondent management pleaded that the petitioners himself have absented from attending their work and due to the heavy loss, lay-off was not informed. The Labour Officer (Conciliation) sent failure report. Hence the petition.

3. The respondent/management filed its counter statement with the following averments :

This industrial dispute is neither maintainable on law nor on facts and the same is liable to be dismissed. This reference is not at all maintainable in view of the provision of section 18(1) of the Industrial Disputes Act, as already settlement between the parties arrived and the Labour Officer, Karaikal has also reported the matter to the Commissioner of Labour, Labour Department, Pondicherry. All the petitioners were not working with the respondent from 1987 as stated in their claim statement. The petitioners are duty bound to prove that they have been worked in the respondent company. Actually the Electricity Department has illegally disconnected the electricity connection given to the respondent's company without following the rules laid down in the Electricity Act. So the respondent has forced to close the company due to the disconnection of electricity supply. So it is incorrect to say by the petitioners that the respondent was closed the company without paying the electricity charges. The respondent has never declared any lay-off. Even after the repeated request, the petitioners never turned for attending the maintenance works and they were unauthorised absent. The respondent submits that at any point of time before the Labour Officer, Karaikal no such failure during the proceeding was happened and no failure report had been sent to the Pondicherry in this connection. Hence, it is the duty of the petitioners to prove that the failure report was sent to the Government. The following persons namely, 1. Balusamy, 2. Nallathambi, 3. Ravi, 4. Kaliyaperumal, 5. Ramakrishnan, 6. G. Maran, 7. Selvi, 8. Sivashankar, 9. S.Kannan, 10. M. Kannan, 11. Justine Raj, 12. Mahendiran, 13. R. Selvam, 14. A. Mani, 15. G. Kulasegarane, 16. R.S. Selvam, 17. K. Ravichandiran, 18. N. Rajavel, 19. V. Tamilarasi, 20. G. Neelavathi, 21. M. Sathiya and 22. A. Mary and the above persons have given withdrawal letter to the Labour Officer, Karaikal. Since the matter already settled between the parties and now they have no right under law to claim before this court. The averment stated in paragraph No. 4 of the claim statements are nothing but false and absolutely pleaded for the purpose of this case. Only due to the act of Government, the respondent was forced to close her company and case in respect of the dispute is at present pending before the Hon'ble Supreme Court of India. The respondent has never done any lay-off. The claim of the petitioners is highly illegal and against all proposition of settled law. Hence, its prayed to dismiss the petition.

*On these pleadings :*

4. On the side of the petitioners two witnesses have been examined as P.W.1 and P.W.2 and Exs. P1 to P7 were marked and Exs.R1 and R2 were marked during cross-

examination of P.W.1. On the side of the respondents three witnesses were examined as R.W.1 to R.W.3 and Exs.R3 to R8 and Ex.X1 to X4 were marked.

*5. Now the point for determination is:*

Whether the petitioners are entitled for an order of lay-off benefits as prayed by them?

*On the point:*

6. The contention of the petitioners is that the respondent management has closed the industry without declaring lay-off and not paid the benefits to the petitioners. On the other hand, the respondent contention is that the Electricity Department disconnected the electricity supply to the industry and as such the Government was compelled to close the industry which is beyond its control. The further contention of the respondent is that there is a settlement under section 18(1) of the Industrial Disputes Act between the management of the respondent and its employees. In order to substantiate the same, the respondent has exhibited Ex.R1 which is section 18(1) settlement in which around 22 employees had signed. It further reveals that the said 22 workers had agreed to withdraw their claims made before the Labour Officer with regard to lay-off salary. P.W.1 during his cross-examination has admitted his signature in Ex.R1. He has further admitted that there are around 22 employees signed behind him in the said settlement. The respondent have also filed Ex.R2 a letter which has been addressed to Labour Officer (Conciliation). Even in Ex.P8 apart from P.W.1 twenty-one employees have signed. P.W.1 has further agreed during his cross-examination that they have received their provident fund benefits. Ex.R5 is dated 14-6-2004 and is subsequent to Ex.P1. The perusal of Ex.P6 reveals that around 53 workers written a letter to the Labour Commissioner on 9-10-2006. It further reveals that after the conciliation has ended in failure the Labour Department has not sent reference to the Labour Court. The perusal of the notification made by the Labour Department, Karaikal region reveals that on 21-5-2007 alone the reference has been made to this court. However, the dispute raised by 40 workers regarding the lay-off salary had been resolved. According to the respondent as there is a settlement under section 18(1) of the Industrial Disputes Act, the workers are bound by it. The said settlement has been arrived only on 14-6-2004 which is subsequent to the failure report sent by the Conciliation Officer which is dated 11-9-2003. Therefore, this settlement is not binding, the employees. In dealing with the lay-off compensation it is not open to this court to see whether the employer could have avoided the lay-off or if he had been more diligent or more foresighted he could

have avoided the same. In the present case, the workers have been denied work without notice as averred by them. As the workers are entitled for the lay-off compensation as a matter of right, which shall be equal to 50% of the total basic wages and the dearness allowances that would have been payable by them if they have not been so laid off. Therefore, in the opinion of this court, the petitioners are entitled for an order of lay-off benefit as prayed by them. In view of the above discussions this point is answered to the effect that the petitioners are entitled for an order of lay-off benefits as prayed by them.

7. In the result, the industrial dispute is allowed directing the respondent/management to pay the lay-off compensation to the petitioners. No costs.

Dictated to the stenographer, transcribed by her, corrected and pronounced by me in the open court on this the 16th day of July 2011.

**R. MARGARET ROSALINE,**  
Presiding Officer, Labour Court.  
Karaikal.

*Petitioner's witnesses :*

P.W. 1. — Balusamy

P.W. 2. — Kaliaperumal

*Respondent's witnesses :*

R.W.1 — P.R.N. Thirumurugan

R.W.2 — S. Antonizamy

R.W.3 — K.V.Sudharsan Rao

*Petitioner's exhibits :*

Ex.P1 — 15-4-2003 Copy of the letter by the petitioners to Labour Conciliation Officer.

Ex.P2 — 6-5-2003 Copy of the letter by the respondent/management to the Labour Officer (Conciliation), Karaikal.

Ex.P3 — 11-9-2003 Copy of the failure report sent by the Labour Officer.

Ex.P4 — — Copy of the Employees' Provident Funds Scheme, 1952.

Ex.P5 — 21-5-2007 Copy of the notification issued by the Labour Department, Puducherry under Notification No. G. O. Rt. No. 99/2007/LAB./AIL/J.

Ex.P6 — 9-10-2006 Copy of the letter issued by the petitioners to the Labour Commissioner, Labour Department, Puducherry.

Ex.P7 — — Letter by the employees of Vasantha Carbides Private Limited, to A. Balusamy.

*Respondent's exhibits:*

Ex.R1 — — Signatures of the petitioners and the respondent in the settlement (Photocopy).

Ex.R2 — 14-6-2004 Copy of the letter by the petitioners to the Labour Officer (Conciliation).

Ex.R3 — 27-08-2003 Copy of the Judgment in O.S. No. 59/2002 delivered by the District Judge, Karaikal.

Ex.R4 — 5-2-2004 Copy of the Judgment in A.S. No. 994 of 2003 and C.M.P. No. 15939 of 2003 delivered by the Hon'ble High Court, Madras.

Ex.R5 — 21-6-2004 Copy of the settlement between the Petitioners and the respondent/management.

Ex.R6 — 21-6-2004 Copy of the letter by the respondent / management to the Labour Officer, Karaikal.

Ex.R7 — 2-6-2004 Copy of letter by Labour Officer, Karaikal to the Labour Commissioner, Pondicherry.

Ex.R8 — 22-6-2004 Signatures of the petitioners found in Ex.R2 (xerox copy).

*Court's exhibits:*

Ex.X1 — 22-6-2004 Original settlement between the petitioners and the respondent/management.

Ex.X2 — 22-6-2004 Letter by Labour Officer, Karaikal to the Labour Commissioner, Pondicherry.

Ex.X3 — 26-4-2005 Copy of the letter by the Employees Provident Fund Organisation, District Office, Pondicherry to the Regional Provident Fund Commissioner, Chennai.

Ex.X4 — — Copy of Form -9 signed by the Petitioners.

**PRESIDING OFFICER,**  
Labour Court, Karaikal.